

Application No. 10/688,637

Attorney Docket No. 1059-3

In the Drawings

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Please replace Figure 3 with amended Figure 3 attached hereto labeled
"Replacement Sheet".

Please add new Figure 11 attached hereto and labeled "New Sheet".

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REMARKS

Claims 1-19 are pending in this application with claims 1 – 15 being previously withdrawn and claims 16 – 19 being amended by this response. Claim 16 is amended for purposes of clarity to define the “baseline ECG value” as a “user specific” value as the claimed method clearly states that the device records the ECG value from the patient upon an initial wearing and activation thereof. Support for this amendment can be found throughout the specification. Claims 17 and 18 are similarly formally amended to be consistent with the amendments to claim 16. Applicant respectfully submits that no new matter has been added by this amendment to claims 16 – 18.

Additionally, the Examiner requests that a drawing be added showing the steps defined in the method claim 16. In accordance with the Examiner’s suggestion, new drawing sheet containing Figure 11 is submitted herewith. “New Sheet” having Figure 11 is a flow diagram detailing the method claimed in Independent claim 16. Applicant respectfully submits that support for the addition of Figure 11 is found throughout the specification and in claims 16 – 19 as originally filed with the present application. Additionally, in view of the addition of Figure 11, the specification has been formally amended to indicate Figure 11 in the “Brief Description of the Drawing Figures” and to describe Figure 11 in the “Detailed Description”. Applicant further respectfully submits that no new matter is added by these amendments as they are fully supported by the originally filed application.

Objections to the Drawings

The drawings are objected to because the element entitled “recess 52” is mentioned in the description but not shown in any drawing figure. Figure 3 is formally amended to include reference numeral “52” corresponding to the “recess” described in the specification. Amended Figure 3 is shown on the “replacement sheet” filed herewith in accordance with 37 CFR 1.121(d). Applicant respectfully submits that no new matter is added by this amendment to Figure 3. Therefore, in view of the above remarks and amendments to Figure 3, Applicant respectfully submits that this objection has been satisfied and should be withdrawn.

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The drawings are objected to under 37 CFR 1.83(a) for failing to show every feature of the invention specified in the claims. The rejection states that the feature claimed in claim 19 is not shown in the drawing figures. In view the addition of Figure 11, it is respectfully submitted that, in accordance with 37 CFR 1.83(a), each feature of the invention is fully supported by the drawing figures. Applicant further respectfully submits that no new matter is added by the addition of Figure 11 to the present application.

In view of the above remarks and amendments to the Drawing Figures, Applicant respectfully submits that the objections to the drawings have been satisfied and should be withdrawn.

Objection to the Abstract

The Abstract of the disclosure is objected to because of its undue length and use of legal phraseology. The Abstract is formally amended to conform with MPEP 608.01(b) to be between 50 and 150 words and to eliminate language typically found in patent claims. Applicant respectfully submits that no new matter is added by the amendments to the Abstract. In view of the above remarks and amendments to the Abstract, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

Objection to the Specification

The disclosure is objected to because of certain informalities identified in the Rejection. Applicant respectfully submits that disclosure has been formally amended in accordance with the suggestions of the Examiner in order to remove the identified informalities. No new matter is added by these formal amendments to the disclosure. In view of the above remarks and amendments to the specification, Applicant respectfully submits that this rejection has been satisfied and should be withdrawn.

Objection to the Claims

Claims 16 – 19 are objected to based on the informalities identified in the Rejection. Applicant respectfully submits that claims 16 – 19 have been formally amended in accordance with the Examiner's suggestion to remove the informalities identified in the

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Rejection. Applicant respectfully submits that no new matter is added by the formal amendments to claims 16 – 19. Therefore, in view of the above remarks and amendments to claims 16 – 19, Applicant respectfully submits that this objection has been satisfied and should be withdrawn.

Rejection of Claims 1-8, 21-24, 26 and 29-32 under 35 USC 103

Claims 16 - 19 are rejected under 35 USC 103(a) as being unpatentable over Anzellini et al. (U.S. 6,339,720).

The present claimed invention describes a method of determining if a user is experiencing a myocardial infarction using an apparatus. A plurality of electrodes are positioned at predetermined positions on a body of a user. The apparatus is activated for a first time using an activation device. Data representing a user-specific baseline ECG value is recorded from the plurality of electrodes and stored in a memory unit. The apparatus is removed from the body of a user. Upon perceiving at least one symptom of a myocardial infarction, the apparatus is repositioned on the body of a user. The apparatus is activated for a second time using the activation device and data representing current bodily activity is recorded. The data representing current bodily activity is compared with the data representing the user-specific baseline ECG for determining if the data representing current bodily activity deviates from the data representing the user-specific baseline ECG by a predetermined deviation value. Upon detecting the deviation, the user is notified that the at least one symptom are indicative of a myocardial infarction.

Anzellini discloses an apparatus for use by a patient to recognize the symptoms of a myocardial infarction (MI) without the assistance of a physician. The device disclosed by Anzellini includes a plurality of electrodes that are positioned on the person of a user to obtain an ECG value when a user is experiencing chest pain or other symptoms of an MI. The unit extracts ST segments and measures elevation or depression in relation to a baseline value. However, the baseline value described by Anzellini is wholly unlike the

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“user-specific baseline value” recorded in during the “first activation” of the apparatus in the claimed method. Anzellini clearly states that “[t]he ST segment of a typical healthy heart is a straight line of zero slope on or near a horizontal reference axis” and that “[i]t is of primary importance for the electrocardiogram not to be analyzed against a predetermined and stored reference or normal value for the patient but against the baseline so it can be used not only by the owner himself of the device and thus it cant help [every]body around him” (see Anzellini, col. 6, line 61 – col. 7, line 4).

The “baseline” of Anzellini is not equivalent to the “user-specific baseline ECG value” recorded by the claimed method. Contrary to the Rejection statement on page 6, Applicant respectfully submits that it would NOT be an obvious matter of design choice to modify the Anzellini apparatus by “recording data representing a baseline ECG value from the plurality of electrodes and string said data in a memory unit” as Anzellini specifically teaches against adding this feature or any feature similar thereto. Anzellini specifically provides that their baseline value **should not be** a “user-specific baseline ECG value” so as to allow the device to be used by a plurality of people. This is not the objective of the claimed invention which specifically requires the recording of a “user-specific baseline ECG value” and further describes “re-recording of this value every sixth month” (see specification page 4, lines 18 – 19). The claimed methods uses an apparatus that is specific to a user that would allow a user to self-diagnose MI symptoms and obtain an accurate notification regarding the validity of these symptoms because the determination is specific to the particular user. Specifically, the apparatus records a “user-specific baseline value” at a first wearing when no symptoms are experienced and then compares “data representing current bodily activity” that is recorded when the user is “perceiving at least one symptom of an myocardial infarction”. The “deviation value” determined by the claimed method is therefore more accurate because the comparison is made between “current bodily activity” and a “user-specific baseline ECG value”.

Therefore, Anzellini provides no 35 USC 112 compliant enabling disclosure that would make the present invention as claimed in claim 16 unpatentable. In fact, Anzellini specifically describes a system/method that is incompatible with the claimed method. Thus, there is no motivation to modify the Anzellini system with the features of the present claimed invention.

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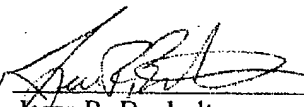
With respect to claim 17, as discussed above with respect to claim 16, Anzellini provides no 35 USC 112 compliant enabling disclosure of the claimed feature because the comparison made by Anzellini compares ST segment with a non-user specific baseline. This is wholly unlike the claimed method which specifically compares current "ST segment" data with "ST segment" derived from "user-specific baseline ECG" data.

Claims 18 and 19 are considered patentable for the reason discussed above with respect to claim 19.

In view of the above remarks and amendments to claims 16 – 19, it is respectfully submitted that Anzellini provides no 35 USC 112 compliant enabling disclosure that makes the present invention as claimed in claim 16 unpatentable. As claims 17 – 19 are dependent on independent claim 16, it is respectfully submitted that claims 17 – 19 are similarly not made unpatentable by Anzellini. Therefore, it is respectfully submitted that this rejection has been satisfied and should be withdrawn.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

Respectfully submitted,
John A. Ambrose

By 
Jesse R. Bucholtz
Reg. No. 55,027

Jack Schwartz & Associates
1350 Broadway, Suite 1510
New York, New York 10018
Tel. No.: (212) 971-0416
Fax No.: (212) 971-0417
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